IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.827 OF 2007

IN

COMPANY PETITION NO.1053 OF 1997

Maharashtra State Financial Corporation (MSFC) ...Petitioner

Versus

Official Liquidator of Pawan Proteins (India) Ltd. ...Respondent

And

SICOM Limited (formerly known as The State Industrial & Investment Corporation of Maharashtra Ltd.) ...Applicants

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Mr.Prakash Punjabi i/b Prakash Punjabi & Co. for Applicants.

Mr.S.Ramakantha, Dy.Official Liquidator is present.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 6, 2007.

P.C.

1. Although this Application is opposed by the Dy.Official Liquidator, in my opinion, the case

on hand is squarely covered by the exposition in the decision dated 14th July 2005 in **Company Petition No.1124 of 2001 in the case of M/s.Sanjivani Agro Industries Ltd. And Balkrishna Manmul Himmatramka & Ors. vs. Official Liquidator, High Court, Bombay & Ors.** This is so because in the present case the sale of assets in question is completed in October 2003 by the Applicants Sicom in exercise of powers under Section 29 of the State Financial Corporation Act. The Conveyance in respect of the said sale was also executed on 7th November 2003. The Applicants have approached this Court with clear assertion that the Applicants were unaware of any winding up proceeding pending against the Respondent Company. It is stated that winding up order was in fact passed on 2nd August 2005 and intimation in that behalf was received by the Applicants from the Official Liquidator only on 31st March 2006. Much before that, the sale was completed in favour of third party by way of Conveyance Deed. Similar situation is considered in the decision pressed into service on behalf of the Applicants. The relevant discussion in this behalf is found in

Paragraphs 13 onwards of the aforesaid decision in the case of **M/s.Sanjivani Agro Industries Ltd. (supra)**.

2. Even in the present case, Sicom is willing to give undertaking that it will bring back such amount determined by the Official Liquidator to satisfy the claim of workers and other creditors covered by Section 529 and 529A to receive the payment on *pari pasu* basis equally along with Sicom being the secured creditor. The Applicants undertake to bring back the amount specified by the Official Liquidator within four weeks from the date of receiving such intimation, so as to facilitate the Official Liquidator to disburse such amount to concerned eligible persons in accordance with law.

3. The assurance given on behalf of Sicom on affidavit as well as through Counsel across the bar is accepted. On accepting that undertaking, the relief claimed in this Application in terms of prayer clause (a) is granted.

4. Application disposed of on the above terms.

A.M.KHANWILKAR, J.